FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by changing the name of the ''LAANA'', NC, WP to ''JOHAR'' in RNAV Route Q–109 to overcome the similar-sounding pronunciation of the LAANA, NC, WP and the LANNA, NJ, Fix which contributes to communications errors resulting from the similar-sounding route point names in radio communications. The amendment is described below.

Q–109: Prior to this final rule, Q–109 extended between the KNOST, OG, WP and the DFENC, NC, WP. The FAA replaces the LAANA, NC, WP with the JOHAR, NC, WP at the same location. As amended, the route continues to extend between the KNOST WP and the DFENC WP.

This action is an administrative change and does not affect the airspace boundaries or operating requirements; therefore, notice and public procedure under 5 U.S.C. 553(b) is unnecessary.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this airspace action of amending RNAV Route Q–109 by changing the name of the ''LAANA'', NC, WP to ''JOHAR'' qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact statement.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–109 KNOST, OG to DFENC, NC [Amended]

KNOST, OG	WP	(Lat. 28°00′02.55″ N, long. 083°25′23.99″ W)
DEANR, FL	WP	(Lat. 29°15′30.40″ N, long. 083°03′30.24″ W)
BRUTS, FL	WP	(Lat. 29°30′58.00″ N, long. 082°58′57.00″ W)
EVANZ, FL	WP	(Lat. 29°54′12.11″ N, long. 082°52′03.81″ W)
CAMJO, FL	WP	(Lat. 30°30′32.00″ N, long. 082°41′11.00″ W)
HEPAR, GA	WP	(Lat. 31°05′13.00″ N, long. 082°33′46.00″ W)
TEEEM, GA	WP	(Lat. 32°08′41.20″ N, long. 081°54′50.57″ W)
RIELE, SC	WP	(Lat. 32°37′27.14″ N, long. 081°23′34.97″ W)
PANDY, SC	WP	(Lat. 33°28′29.39″ N, long. 080°26′55.21″ W)
RAYVO, SC	WP	(Lat. 33°38′44.12″ N, long. 080°04′00.84″ W)
SESUE, SC	WP	(Lat. 33°52′02.58″ N, long. 079°33′51.88″ W)
BUMMA, SC	WP	(Lat. 34°01′58.09″ N, long. 079°11′07.50″ W)
YURCK, NC	WP	(Lat. 34°11′14.80″ N, long. 078°52′40.62″ W)
JOHAR, NC	WP	(Lat. 34°19′41.35″ N, long. 078°35′37.16″ W)
TINKK, NC	WP	(Lat. 34°51′03.78″ N, long. 078°05′48.08″ W)
DFENC, NC	WP	(Lat. 35°55′11.09″ N, long. 077°03′37.54″ W)

* * * * *

Issued in Washington, DC, on August 5, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024–17721 Filed 8–14–24; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 48

RIN 3038–AF37

Foreign Boards of Trade

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) is amending its regulations to permit a foreign board of trade (FBOT) registered with the Commission to provide direct access to its electronic trading and order matching system to an identified member or other participant located in the United States and registered with the Commission as an introducing

broker (IB) for submission of customer orders to the FBOT's trading system for execution. The Commission is also establishing a procedure for an FBOT to request revocation of its registration, and removing certain outdated references to ''existing no-action relief.''

DATES: The rules will become effective September 16, 2024.

FOR FURTHER INFORMATION CONTACT: Alexandros Stamoulis, Associate Director, Division of Market Oversight, Commodity Futures Trading Commission, (646) 746–9792, *astamoulis@cftc.gov,* 290 Broadway, 6th Floor, New York, NY 10007; Roger Smith, Associate Chief Counsel, Division of Market Oversight, Commodity Futures Trading Commission, (202) 418–5344, *rsmith@cftc.gov,* 77 West Jackson Blvd., Suite 800, Chicago, IL 60604; Jennifer Diamantis, Special Counsel, (202) 418–5762, *jdiamantis@cftc.gov,* Commodity Futures Trading Commission, Division of Market Oversight, Three Lafayette Centre, 1151 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

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I. Background

Under part 48 of the Commission's regulations, an FBOT must be registered with the Commission in order to provide its members or other participants located in the United States with direct access to its electronic trading and order matching system.[1] Part 48 is authorized by section 738 of the Dodd-Frank Act, which amended section 4(b) of the Commodity Exchange Act (CEA), to provide that the Commission may adopt rules and regulations requiring FBOTs that wish to provide U.S. persons with direct access to register with the Commission.[2] Prior to enactment of the part 48 FBOT registration procedures in 2011, FBOTs relied on no-action letters that were requested by the FBOT and issued by Commission staff in order to provide direct access to U.S. persons.[3]

Part 48 provides the procedures, requirements, and conditions to be met by FBOTs that seek to provide their members and other participants in the U.S. with direct access to the FBOT's trade matching system. The regulations set forth, among other things, procedures an FBOT must follow in applying for registration, requirements that an FBOT must meet in order to obtain registration, conditions that an FBOT must satisfy on a continuing basis upon obtaining registration, and provisions for the termination of registration.

On March 1, 2024, the Commission released a proposal[4] to amend § 48.4 to broaden the types of intermediaries eligible for direct access for submission of customer orders to the FBOT to include IBs registered with the Commission as such and located in the United States.[5] An IB is generally defined as an individual or organization that solicits or accepts orders to buy or sell futures contracts, commodity options, retail off-exchange forex or commodity contracts, or swaps, but does not accept money or other assets from customers to support these orders.[6] Currently, § 48.4 only includes certain futures commission merchants (FCMs), commodity pool operators (CPOs), and commodity trading advisors (CTAs) as intermediaries that are eligible for entering orders on behalf of customers or commodity pools (in the case of CPOs) via direct access on a registered FBOT.

In addition, the Proposal proposed to amend § 48.9 to provide registered FBOTs with a procedure to request revocation of their FBOT registration. Further, the Commission proposed to delete § 48.6, which provides for an alternate registration procedure for FBOT's operating under the preexisting staff no-action letter process, because such no-action letter process and no-action letters are no longer in effect.

The Commission received seven comment letters regarding the Proposal.[7] After considering the comments, the Commission is adopting the rule amendments described herein as proposed. The Commission believes the amendments are an appropriate response to market developments that have occurred since part 48 was promulgated in 2011, and will benefit affected markets and their participants by improving competition, risk management and liquidity—while also maintaining the Commission's longstanding protections available to U.S. customers that trade foreign futures and options.

II. Final Regulations

A. Section 48.4—Registration Eligibility and Scope

1. Proposed Regulations

The Commission proposed to amend § 48.4(b) to permit FBOTs to provide direct access to eligible IBs to enter orders directly into an FBOT's trading and order matching system on behalf of U.S. customers.[8] Section 48.4(b)

[1] *See* Registration of Foreign Boards of Trade, Final Rule, 76 FR 80674 (Dec. 23, 2011); 17 CFR part 48. ''Direct access'' is defined as an explicit grant of authority by a foreign board of trade to an identified member or other participant located in the United States to enter trades directly into the trade matching system of the foreign board of trade. CEA section 4(b)(1)(A), 7 U.S.C. 6(b)(1)(A); 17 CFR 48.2(c).

[2] *See* Sec. 738, Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376, 1726–1728 (2010) (*codified at* 7 U.S.C. 6(b)).

[3] *See* 76 FR 80674 at 80674–80675.

[4] Foreign Boards of Trade, 89 FR 15083 (Mar. 1, 2024) (the Proposal).

[5] Intermediaries are entities that act on behalf of another person with respect to trading derivatives. They are generally required to register with the Commission and, depending on the nature of their activities, may be subject to various financial, disclosure, reporting, and recordkeeping requirements.

[6] IB is defined, subject to certain exclusions and additions, in CEA section 1a(31) as any person (except an individual who elects to be and is registered as an associated person of a futures commission merchant) (i) who (I) is engaged in soliciting or in accepting orders for (aa) the purchase or sale of any commodity for future delivery, security futures product, or swap; (bb) any agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i); (cc) any commodity option authorized under section 4c; or (dd) any leverage transaction authorized under section 19; and (II) does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom; or (ii) who is registered with the Commission as an IB. 7 U.S.C. 1a(31). IB is further defined, subject to certain exclusions and additions, in Commission regulation 1.3(mm) as (1) Any person who, for compensation or profit, whether direct or indirect: (i) Is engaged in soliciting or in accepting orders (other than in a clerical capacity) for the purchase or sale of any commodity for future delivery, security futures product, or swap; any agreement, contract or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i) of the CEA; any commodity option transaction authorized under section 4c; or any leverage transaction authorized under section 19; or who is registered with the Commission as an IB; and (ii) Does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom. 17 CFR 1.3(mm). IBs are subject to registration with the Commission under CEA section 4d(g) and Commission regulation 3.4(a). 7 U.S.C. 6d(g) and 17 CFR 3.4(a).

[7] The following persons and entities submitted relevant comment letters: Everett Mein, Eurex Deutschland (Eurex), Futures Industry Association (FIA), Intercontinental Exchange Inc. (ICE), New Zealand Exchange Limited (NZX), NIBA, and the Wholesale Markets Brokers' Association, Americas (WMBAA).

[8] The term ''eligible IB'' is used in this release to mean an IB that is located in the United States and

identifies the types of members or other participants located in the U.S. that may enter orders directly into the trading and order matching system of a registered FBOT, and the types of accounts for which orders may be submitted by such members or other participants. In this regard, the types of members or other participants identified in existing § 48.4(b) represent the types of members or other participants that were trading via direct access on FBOTs that operated in reliance on CFTC staff no-action letters at the time part 48 was promulgated.[9] Specifically, § 48.4(b)(1) provides that any member or other participant located in the U.S. may enter orders for their proprietary accounts.[10] Further, § 48.4(b)(2) provides that registered FCMs may submit orders on behalf of their customers. Section 48.4(b)(3) permits certain CPOs to submit orders on behalf of U.S. commodity pools and certain CTAs to submit orders on behalf of U.S. customers provided, however, all trades by the CPO or CTA effected through submission of such orders are guaranteed by a clearing firm registered as an FCM or exempt from FCM registration pursuant to § 30.10.[11] The Commission proposed to amend § 48.4(b) by inserting a new paragraph (b)(4) to provide that eligible IBs may submit orders on behalf of their customers, provided that a registered FCM or firm exempt from FCM registration pursuant to § 30.10 acts as a clearing firm and guarantees all trades of the IB effected through submission of U.S. customer orders to the trading system. The Commission also proposed to amend paragraph (b)(3) to insert the words ''registered as such'' following ''futures commission merchant'' to clarify that the reference is limited to FCMs registered with the Commission as such.[12]

Direct access is defined in the CEA and part 48 of the Commission's regulations to mean an explicit grant of authority by an FBOT to an identified member or other participant located in the U.S. to enter trades directly into the trade matching engine of the FBOT.[13] This means that the FBOT, as opposed to its members or participants, has identified and permitted a member or participant to enter trades directly into the FBOT's order matching and trade entry system from the United States.[14] For example, a registered FBOT may authorize its members or other participants eligible to handle U.S. customer orders to enter orders on behalf of their U.S. customers or to otherwise permit their U.S. customers to access the trading system using the member's or participant's identifier and grant of authority. In such cases the FBOT permits an identified exchange member or other participant to allow their U.S. customers, who have not been granted direct access by the FBOT, to have access to the exchange's trading systems, subject to a guarantee from an exchange member or other participant. The proposed amendment to § 48.4(b) would permit registered FBOTs to grant explicit authority to eligible IBs to act in such capacity, provided that all trades effected by the IB through submission of U.S. customer orders are guaranteed by a registered FCM or a firm exempt from FCM registration pursuant to § 30.10.

2. Public Comments

All comment letters received generally support the proposed amendment to § 48.4(b) to permit registered FBOTs to provide direct access to eligible IBs to enter orders on behalf of U.S. customers.[15] Commenters agree that permitting eligible IBs to submit customer orders via direct access to FBOTs would benefit affected markets and market participants.[16] Several commenters observe that markets have evolved and the role of IBs serving as executing brokers has grown since the Commission's adoption of part 48 in 2011.[17] In light of these changes, commenters support the Commission's efforts to update part 48 to ensure that its regulations remain current and reflect changes in the market.[18] Commenters further opine that the Proposal, if adopted, is likely to: provide greater customer choice in, and promote fair competition among, brokers; [19] improve the ability for U.S. participants to manage risk; [20] and increase liquidity in affected markets.[21]

The Commission received several comments specifically in support of the proposed condition in § 48.4(b)(4) requiring U.S. customer orders submitted by IBs to be guaranteed by a registered FCM or a firm exempt from FCM registration pursuant to § 30.10.[22] Commenters note that they support the proposed condition because it would extend access to IBs located in the U.S. on the same terms that U.S. CPOs and CTAs currently access FBOTs.[23]

registered with the Commission as an IB. Direct access, as defined in the CEA and part 48, refers explicitly to members or other participants of an FBOT that are located in the United States. *See* footnote 1, *supra.* For purposes of this rulemaking and as used herein, the terms ''U.S. customer'' and ''United States customer'' refer to customers located in the United States, its territories or its possessions.

[9] *See* Registration of Foreign Boards of Trade, Notice of Proposed Rulemaking, 88 FR 61432, 70977 (Nov. 19, 2010).

[10] Under § 48.2(l), member or other participant is defined as a member or other participant of an FBOT and any affiliate thereof that has been granted direct access by the FBOT. 17 CFR 48.2(l). Proprietary account is defined in § 1.3, 17 CFR 1.3.

[11] A § 30.10 exemptive order permits firms subject to regulation by a foreign regulator to conduct business from locations outside of the U.S. for U.S. persons on FBOTs without registering as FCMs, based upon the firm's substituted compliance with a foreign regulatory structure found comparable to that administered by the Commission under the CEA. Used herein, U.S. commodity pool refers to a commodity pool that does not meet the criteria set forth in § 3.10(c)(5)(iii)(A) through (F), 17 CFR 3.10(c)(5)(iii)(A) through (F).

[12] The addition of the words ''registered as such'' here is intended as a technical change rather than a substantive change; *i.e.,* that the reference is intended to refer to registered FCMs is already implied by the subsequent clause ''or a firm exempt from such registration . . .''

[13] CEA section 4(b)(1)(A), 7 U.S.C. 6(b)(1)(A); 17 CFR 48.2(c).

[14] Conversely, a person located in the U.S. who accesses an FBOT through an intermediary (whether such intermediary is located in the United States or not) and without an explicit grant of authority by the FBOT (*i.e.,* such person is not an identified member or other participant of the FBOT) would not meet the definition of ''direct access'' for purposes of part 48. *See, e.g.,* 76 FR 80674 at 80688.

[15] *See* Eurex Letter; FIA Letter; ICE Letter; Mein Letter; NZX Letter; NIBA Letter; and WMBAA Letter.

[16] *See* Eurex at 1–4; FIA at 2; ICE at 2; Mein at 5–6, 8 NIBA at 2; WMBAA at 2.

[17] *See* Eurex at 3–4; FIA at 2; WMBAA at 2.

[18] *See* Eurex at 2–4; WMBAA at 2.

[19] *See* FIA at 2; NZX at 1; NIBA at 2; WMBAA at 2–3.

[20] *See* Eurex at 3–4; FIA at 2; WMBAA at 2; NIBA at 1. Commenters specifically note that the Proposal would allow U.S. participants to better conduct risk management by enabling on-exchange trades in foreign markets through IBs during the U.S. business day following the close of European markets. *Id.*

[21] ICE posits that the proposed changes to § 48.4 would enable additional types of market participants to access FBOTs, which would improve liquidity and reduce fragmentation while promoting competitiveness in derivatives markets. ICE at 2. NIBA and WMBAA generally state that they believe the Proposal would improve liquidity. NIBA at 2; WMBAA at 2.

[22] *See* FIA at 2; Eurex at 3–4, 6, 8; ICE at 2; NIBA at 2; NZX at 1.

[23] *Id.* Eurex further states that it does not believe there is any reason to require a different standard for IBs than what is presently required for CPOs or CTAs, and asserts that the Commission's framework for assessing applications for exemptions under § 30.10 provides a comprehensive and robust process to assess whether the foreign jurisdiction offers a comparable regulatory scheme (including with respect to the protection of customer funds, and anti-money laundering (AML)). Eurex at 6–7. ICE states that the condition reflects the different ways U.S. customers access clearing and avoids unnecessary limitations on customers trading through FBOTs. ICE at 2. Further, Eurex states that it does not believe there is any additional information the Commission should receive from FBOTs that provide direct access to IBs under the proposed amendment to § 48.4(b)(4). Eurex at 8. Eurex notes that all quarterly, annual, and prompt-notice reporting requirements that pertain to an FBOT's members under § 48.8(b)(1) would apply to IBs as well as existing categories of participants. Eurex at 8. In addition, Eurex asserts that IBs are

Continued

Two commenters requested clarification that proposed § 48.4(b)(4) would permit IBs to submit block trades to an FBOT (or otherwise not prohibit them from doing so).[24]

3. Commission Determination

The Commission is adopting, as proposed and as supported by commenters, the amendment to § 48.4(b) to permit FBOTs to provide direct access to eligible IBs to enter orders directly into an FBOT's trading and order matching system on behalf of U.S. customers.[25] The Commission agrees with commenters that permitting eligible IBs to submit customer orders via direct access to FBOTs would benefit market participants and affected markets,[26] and is an appropriate update to part 48 of the Commission's regulations given the increased role that IBs now serve in derivatives markets.[27] As discussed above, existing § 48.4(b) permits registered FBOTs to provide direct access to eligible FCMs, CPOs and CTAs for submission of client orders. DCMs may provide for IBs to act as executing brokers for customer accounts that in turn use FCM clearing members to whom executed trades are given up for clearing and through which such customer accounts are carried.[28] FBOTs may similarly permit IBs located outside of the United States to enter trades directly into the trading system of the FBOT on behalf of their customer accounts.[29] The Commission agrees with commenters that the amendment to § 48.4 will permit registered IBs located in the U.S. to act in a comparable capacity on registered FBOTs in cases where an FBOT grants direct access to the IB for the purpose of submitting customer orders for execution.[30] The Commission believes, as supported by commenters, that allowing eligible IBs to have direct access to registered FBOTs to execute transactions on behalf of their U.S. clients is likely to: provide U.S. market participants that wish to trade in foreign derivatives contracts with greater choice in brokers and broker arrangements, and increase competition among firms offering execution brokerage services to customers on registered FBOTs; [31] improve the ability for U.S. participants to manage risk; [32] and increase liquidity on affected markets.[33] The Commission furthermore believes, as supported by commenters, that permitting U.S. IBs access to FBOTs on par with FCMs, CPOs, CTAs, and foreign brokers will not undermine or otherwise adversely affect protections available to U.S. customers because their trades must be guaranteed by a registered FCM or firm exempt from FCM registration under § 30.10,[34] and will be subject to required risk disclosures relating to foreign futures and options transactions.[35]

Therefore, for the reasons stated above, the Commission is adopting as proposed the amendment to § 48.4(b) to permit FBOTs to provide direct access to eligible IBs to enter orders directly into an FBOT's trading and order matching system on behalf of U.S. customers.

Eurex and WMBAA each requested that the Commission clarify that the Proposal would permit IBs to submit block trades to an FBOT (or otherwise not prohibit them from doing so).[36] Section 48.4(b) provides that an FBOT may apply for registration under part 48 ''in order to permit the members and other participants of the [FBOT] that are located in the United States to enter trades directly into the trading and order matching system of the foreign board of trade[. . .].'' [37] The Commission confirms and clarifies that this may include block trades submitted to an FBOT. As such, and for the avoidance of doubt, an FBOT registered under part 48 is not prohibited by this final rule from allowing an eligible IB to which it has granted direct access to submit block trades to the FBOT on behalf of the IB's U.S. clients.

B. Section 48.8—Conditions of Registration

1. Proposed Regulations

The Commission proposed conforming amendments that will include eligible IBs in §§ 48.8(a)(4)(ii) and (a)(5)(i) and (iii) alongside FCMs, CPOs and CTAs.

Section 48.8(a)(4)(ii) requires all orders transmitted via direct access and pursuant to an FBOT's registration to be for a member's or other participant's proprietary trading account unless transmitted by a registered FCM, CPO or CTA (or exempt CPO or CTA). The Commission proposed to include IBs in this section along with FCMs, CPOs and CTAs, to conform with the proposed changes to § 48.4(b) that would allow

already subject to a wide range of CFTC and NFA regulatory record keeping and reporting requirements, which provides the Commission with the necessary reporting for oversight. Eurex at 8. Eurex further opines that it does not believe there are any additional registration requirements under § 48.7 that the Commission should consider for FBOTs that provide direct access to IBs under proposed § 48.4(b)(4). Eurex at 7.

[24] *See* Eurex at 4; WMBAA at 3. In addition, WMBAA requests clarification as to whether permitting IBs located in the U.S. to engage in block trades would require an unregistered foreign board of trade to be registered as an FBOT under part 48. WMBAA at 3. Generally speaking, a board of trade that is not a designated contract market (DCM) or registered FBOT may, depending on the nature of its activities within the United States, be liable for violating section 4(a) of the CEA, 7 U.S.C. 6(a). Without knowing the specifics of how each potential unregistered foreign board of trade operates with respect to block trades involving IBs located in the U.S. as well as other U.S. located participants, the Commission is not in a position to opine generally on WMBAA's request. However, the Commission notes that unregistered foreign boards of trade seeking guidance concerning FBOT registration and its application to their particular operations may request informal guidance from the Division of Market Oversight.

[25] *See* Eurex Letter; FIA Letter; ICE Letter; NZX Letter; NIBA Letter; WMBAA Letter; and Mein Letter.

[26] *See* Eurex at 1–4; FIA at 2; ICE at 2, NIBA at 2; Mein at 5–6, 8.

[27] *See* Eurex at 3–4; FIA at 2; WMBAA at 2.

[28] The Commission also agrees with ICE that the amendment to 48.4(b) ''would establish a similar structure that is already in place on [DCMs] whereby IBs submit customer orders via direct electronic access.'' ICE at 2.

[29] *See* Eurex at 3; WMBAA at 3.

[30] *See* WMBAA at 2–3. *See also* Eurex at 4; FIA at 2.

[31] *See* FIA at 2; NZX at 1; NIBA at 2; WMBAA at 2–3.

[32] *See* Eurex at 3–4; FIA at 2; WMBAA at 2; NIBA at 1.

[33] *See* footnote 21, supra.

[34] Including the provision relating to the guarantee of U.S. customer trades in new § 48.4(b)(4) will ensure that U.S. customer trades executed by eligible IBs via direct access are guaranteed by a firm that is registered as an FCM or exempt from FCM registration under § 30.10. In so doing, the final rule will act to reinforce adherence with part 30, insofar as part 30 generally requires intermediaries holding funds of U.S. customers in connection with the offer or sale of foreign futures and options to be registered as FCMs or exempt from FCM registration under § 30.10. Part 30 of the Commission's regulations governs the offer and sale of foreign futures and options to customers located in the United States. These regulations are designed to carry out Congress's intent that foreign futures and options offered or sold in the U.S. be subject to regulatory safeguards comparable to those applicable to domestic transactions. Section 30.4 of the Commission's regulations requires that in order to accept any money, securities or property (or extend credit in lieu thereof) to margin, guarantee or secure transactions conducted by U.S. persons on an FBOT, a person must be registered as an FCM. *See* 17 CFR 30.4(a). The Commission may grant and has granted exemptions to this requirement to register as an FCM based on petitions filed pursuant to 17 CFR 30.10. *See* footnote 11, *supra*. *See also* Eurex at 5–7; ICE at 2.

[35] Section 30.6 of the Commission's regulations requires FCMs and IBs to provide a statement to customers disclosing the risks of trading foreign futures and options outside the United States. 17 CFR 30.6. This requirement also applies to exempt foreign IBs, CPOs, and CTAs. 17 CFR 30.5(c). Petitions for exemptive relief under § 30.10 for firms seeking an exemption from FCM registration must demonstrate that such firms are subject to a comparable regulatory program that includes, among other elements, minimum sales practice standards, including ''disclosure of the risks of futures and options transactions and, in particular, the risk of transactions undertaken outside the jurisdiction of domestic law.'' 17 CFR part 30, Appendix A, Sales Practice Standards. *See also* Eurex at 4.

[36] *See* Eurex at 4; WMBAA at 3.

[37] 17 CFR 48.4(b).

eligible IBs to transmit orders via direct access on behalf of the accounts of their customers. The Commission also proposed to add the words ''registered as such'' following the final reference to ''futures commission merchant'' in § 48.8(a)(4)(ii) to conform to the proposed amendment to § 48.4(b)(3).[38]

Section 48.8(a)(5)(i) provides that a registered FBOT must require each current and prospective member or other participant granted direct access and not registered with the Commission as an FCM, CPO or CTA to agree to and submit to the jurisdiction of the Commission with respect to activities conducted pursuant to the FBOT's registration. Registered FCMs, CPOs and CTAs are excluded from this requirement because they are otherwise subject to the jurisdiction of the Commission as Commission registrants. Registered IBs are likewise subject to the jurisdiction of the Commission as registrants and the Commission therefore proposed to include IBs alongside FCMs, CPOs and CTAs in § 48.8(a)(5)(i).

Section 48.8(a)(5)(iii) provides that a registered FBOT, its clearing organization, and each current and prospective member or other participant granted direct access that is not registered with the Commission as an FCM, CPO or CTA must maintain with the FBOT written representations stating that such entity will provide prompt access to books, records, and premises upon the request of the Commission, U.S. Department of Justice and, if appropriate, the National Futures Association (NFA). Registered FCMs, CPOs and CTAs are excluded from this requirement because they are otherwise required to provide such access to books, records, and premises as Commission registrants and, where applicable, NFA members.[39] Registered IBs, as Commission registrants and NFA members, are likewise required to provide such access to books, records, and premises by the Commission, U.S. Department of Justice, and NFA, and the Commission therefore proposed to include IBs alongside FCMs, CPOs and CTAs in § 48.8(a)(5)(iii).

2. Public Comments

The Commission received no comments regarding the proposed conforming amendments to include eligible IBs in §§ 48.8(a)(4)(ii) and (a)(5)(i) and (iii) alongside FCMs, CPOs and CTAs.

3. Commission Determination

The Commission is adopting, as proposed, the amendments to §§ 48.8(a)(4)(ii) and (a)(5)(i) and (iii).

C. Section 48.9—Revocation of Registration

1. Proposed Regulations

The Commission proposed to amend § 48.9 to establish a procedure for FBOTs to request voluntary revocation of registration. Section 48.9 addresses certain events which could lead the Commission to revoke an FBOT's registration, including the failure to satisfy registration requirements or conditions, and certain other specified events.[40] However, part 48 presently does not contain any provisions for an FBOT to request voluntary revocation of its registration. In order to allow registered FBOTs to more easily ascertain the steps required to request revocation, the Commission proposed to amend § 48.9(b) (''Other Events that Could Result in Revocation'') by adding a new paragraph (b)(5).

2. Public Comments

The Commission received one comment regarding the proposed amendments to § 48.9 to establish a procedure for FBOTs to request voluntary revocation of registration. NZX commented that it supports the introduction of a revocation process for FBOTs because it will provide greater certainty for entities that no longer wish to retain their status as a registered FBOT.[41]

3. Commission Determination

The Commission agrees with NZX that the amendment will provide greater certainty for entities that no longer wish to retain their status as a registered FBOT.[42] Therefore, for the reasons stated above and as supported by public comment, the Commission is adopting as proposed the addition of § 48.9(b)(5) which makes clear that the Commission may revoke an FBOT's registration in response to a voluntary request by an FBOT to do so, and provides that an FBOT can make such request via email to the Commission.

D. Section 48.6—Foreign Boards of Trade Providing Direct Access Pursuant to Existing No-Action Relief

1. Proposed Regulations

Section 48.6 provides for a limited registration application procedure for FBOTs that had been operating under existing staff no-action letters and FBOTs that had submitted a complete application for a staff no-action letter that was pending as of the effective date of part 48. Those limited application provisions are no longer applicable because all FBOTs with previously existing staff no-action letters have been registered under part 48 and all such no-action letters have been revoked. Accordingly, the Commission proposed to delete § 48.6. As a conforming amendment the Commission also proposed to delete § 48.2(h) (definition of ''existing no-action relief'') as that definition will no longer be applicable or necessary once existing § 48.6 is removed.

2. Public Comments

The Commission received one comment generally in support of the proposed deletion of § 48.6 and the conforming deletion of § 48.2(h).[43]

3. Commission Determination

Therefore, for the reasons stated above, the Commission is adopting as proposed the deletion of § 48.6 and the conforming deletion of § 48.2(h).

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires agencies to consider whether the regulations they promulgate will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis with respect to such impact.[44] The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the RFA.[45] The amendments to part 48 would impact FBOTs. The Commission has previously determined that FBOTs are not small entities for purposes of the RFA.[46]

The amendments to part 48 would also impact eligible IBs by providing

[38] *See* footnote 12, *supra,* and accompanying text.

[39] Subpart C of part 170 of the Commission's regulations provides for certain exceptions to the general requirement that Commission-registered FCMs and CTAs must become NFA members. *See* 17 CFR 170.15 and 170.17.

[40] *See* 17 CFR 48.9.

[41] NZX at 3.

[42] *Id.*

[43] NZX states that it supports the removal of § 48.6, which is obsolete, and the removal of § 48.2(h) as a conforming amendment. NZX at 3.

[44] 5 U.S.C. 601 *et seq.*

[45] See Policy Statement and Establishment of ''Small Entities'' for purposes of the Regulatory Flexibility Act, 47 FR 18618 (Apr. 30, 1982).

[46] 76 FR 80698.

them with the potential to gain direct access to FBOTs that incorporate the new regulatory provisions allowing such IBs direct access. The Commission has previously established that IBs may in some cases be deemed ''small entities'' for the purposes of the RFA.[47] However, the final rules do not impose any new burden on eligible IBs. Instead, the final rules would remove a regulatory barrier preventing these small entities from accessing FBOTs. Accordingly, the Commission believes that the regulation will be less burdensome to small-entity, eligible IBs and will not impose any additional costs on them.

Therefore, the Chairman, on behalf of the Commission, pursuant to 5 U.S.C. 605(b), hereby certifies that the final rules will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) [48] imposes certain requirements on Federal agencies (including the Commission) in connection with conducting or sponsoring any ''collection of information,'' [49] as defined by the PRA. Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number from the Office of Management and Budget (OMB).[50] The PRA is intended, in part, to minimize the paperwork burden created for individuals, businesses, and other persons as a result of the collection of information by Federal agencies, to ensure the greatest possible benefit and utility of information created, collected, maintained, used, shared, and disseminated by or for the Federal Government.[51] The PRA applies to all information, ''regardless of form or format,'' whenever the government is obtaining, causing to be obtained, or soliciting information, and includes required disclosure to third parties or the public, of facts or opinions, when the information collection calls for answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons.[52]

This final rulemaking amends regulations that contain collections of information for which the Commission has previously received a control number from OMB: 3038–0101, Registration of Foreign Boards of Trade (17 CFR part 48).[53] This collection addresses the information collection requirements associated with part 48's registration requirement and related registration procedures and conditions that apply to FBOTs that wish to provide direct access to their electronic trading and order matching systems. The final rulemaking allows eligible IBs to act as direct access participants on registered FBOTs, provides a process for FBOTs to request voluntary revocation of their registration, and removes outdated references to ''no action relief.''

The Commission believes that these amendments do not contain any new collections of information and will not increase the burden associated with the information collections under part 48. While the amendments establish a new process for FBOTs to submit requests for revocation of their registration, the regulations allow FBOTs to submit their requests electronically via email to the Commission and do not mandate any specific form or format for such requests. Accordingly, this new submission method does not constitute a collection of information under the PRA. In addition, the amendments do not affect the provisions of part 48 covered in the current PRA approval (§ 48.8 (periodic data submissions to the Commission), § 48.9 (demonstration of compliance); and § 48.10 (listing additional futures and options contracts)). Accordingly, the Commission is retaining its existing estimates for the burden associated with the information collections under OMB Collection 3038–0101. The Commission received no comments related to the PRA analysis or this determination.

C. Cost-Benefit Considerations

1. Introduction

Section 15(a) of the CEA [54] requires the Commission to ''consider the costs and benefits'' of its actions before promulgating a regulation under the CEA or issuing certain orders. CEA section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the CEA section 15(a) factors.

The Commission has endeavored to assess the expected costs and benefits of the amendments in quantitative terms, including Paperwork Reduction Act (PRA)-related costs, where practicable. In situations where the Commission is unable to quantify the costs and benefits, the Commission identifies and considers the costs and benefits of the applicable amendments in qualitative terms. The Commission did not receive any comments from commenters which quantified or attempted to quantify the costs and benefits of the Proposal.

The Commission notes that this consideration of costs and benefits is based on, inter alia, its understanding that the derivatives markets regulated by the Commission function internationally, with (1) transactions that involve entities organized in the United States occurring across different international jurisdictions, (2) some entities organized outside of the United States that are prospective Commission registrants, and (3) some entities that typically operate both within and outside the United States, and that follow substantially similar business practices wherever located. Where the Commission does not specifically refer to matters of location, the discussion of costs and benefits below refers to the effects of the regulations on all relevant derivatives activity, whether based on their actual occurrence in the United States or on their connection with activities in, or effect on, U.S. commerce.[55]

In the following consideration of costs and benefits, the Commission first identifies and discusses the benefits and costs attributable to the rule amendments. The Commission, where applicable, then considers the costs and benefits of the rule amendments in light of the five public interest considerations set out in section 15(a) of the CEA.

2. Final Regulations

The Commission is amending certain rules in part 48 of its regulations relating to FBOTs. The Commission identifies the costs and benefits of the amendments relative to the baseline of the regulatory status quo. In particular, the baseline against which the Commission considers the costs and benefits of these rule amendments is the statutory and regulatory requirements of the CEA and Commission regulations

[47] 85 FR 78718, 78733 (Dec. 7, 2020).

[48] 44 U.S.C. 3501 *et seq.*

[49] *See* 44 U.S.C. 3502(3)(A).

[50] *See* 44 U.S.C. 3507(a)(3); 5 CFR 1320.5(a)(3).

[51] *See* 44 U.S.C. 3501.

[52] *See* 44 U.S.C. 3502(3).

[53] The Commission's most recent burden estimates for this collection are available at *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202301-3038-001.*

[54] 7 U.S.C. 19(a).

[55] *See, e.g.,* 7 U.S.C. 2(i).

now in effect, in particular CEA section 4(b) and part 48 of the Commission's regulations.

Amendments to § 48.6

The final rules delete § 48.6, which provided for an alternate registration procedure for FBOTs acting under the preexisting staff no-action letter process, because such no-action letter process and no-action letters are no longer in effect. Deletion of § 48.6 and elimination of the alternate registration procedure will not increase costs to FBOTs because § 48.6 and the alternate registration procedure are already in effect obsolete.

Amendments to § 48.9

The amendment to § 48.9 establishes a procedure for FBOTs to request voluntary revocation of registration. This amendment would not impose a new requirement for FBOTs. The baseline is the current practice of the Commission, whereby requests for voluntary revocation are processed on an ad-hoc basis. The primary benefit will be to allow registrants to more easily ascertain the steps required to request revocation. The amendments are not expected to increase costs to registered FBOTs compared to the status quo.

Amendments to § 48.4 and Conforming Amendments to § 48.8

The amendments to § 48.4 and conforming amendments to § 48.8 permit a registered FBOT to provide direct access to its electronic trading and order matching system to an identified member or other participant located in the U.S. and registered with the Commission as an IB for submission of customer orders to the FBOT's trading system for execution, provided that all trades effected through submission of U.S. customer orders are guaranteed by a registered FCM or a firm exempt from FCM registration pursuant to § 30.10.

There are presently 24 FBOTs registered with the Commission. Under the current rules, eligible intermediaries permitted direct access on registered FBOTs for purposes of entering trades on behalf of non-proprietary client accounts include certain FCMs, CTAs, and CPOs. The amendments would add eligible IBs to the existing list of eligible intermediaries. Similar to trades submitted by CTAs and CPOs via direct access, the trades executed by eligible IBs on behalf of customers located in the U.S. would be required to be guaranteed by a registered FCM or a firm exempt from FCM registration pursuant to § 30.10. IBs specialize in soliciting and executing orders for their clients. The field of trade execution is continuously evolving with technological advances, and has helped bring down execution costs. As of July 2024, the following numbers of intermediaries were registered with the Commission.[56]

INTERMEDIARIES REGISTERED WITH THE COMMISSION AS OF JULY 2024

CTAs [1]	1,237
CPOs [1]	1,188
IBs	919
FCMs	62
Swap Dealers	107

[1] These categories are not mutually exclusive, *i.e.,* a CPO may also be registered as a CTA.

The table above shows that the number of IBs is more than one quarter of all Commission-registered intermediaries. The Commission does not know how many FBOTs will choose to provide direct access to eligible IBs for purposes of entering trades on behalf of non-proprietary client accounts or how many eligible IBs will become direct access members or participants of registered FBOTs pursuant to this final rule. There could also be new IB entrants that are granted direct access to registered FBOTs. However, by permitting FBOTs the option to provide direct access to eligible IBs for submission of customer orders, the amendments could lead to a significant increase in the number of choices for U.S. customers with respect to execution of trades on FBOTs.

Although the Commission lacks the data and information to quantitatively estimate the costs and benefits of permitting IBs located in the U.S. to have direct access to registered FBOTs pursuant to this final rule, it has endeavored to assess the expected costs and benefits of the proposal in qualitative terms. The lack of data and information to estimate costs is attributable in part to uncertainty regarding how FBOTs will choose to respond to the amendments to part 48 and how IBs located in the U.S. will choose to respond to potential new opportunities to participate on registered FBOTs.

The baseline is the status quo in which § 48.4 permits FBOTs to provide direct access to certain FCMs, CPOs and CTAs for purposes of transmission of orders for certain client accounts. Furthermore, foreign IBs not located in the U.S. may have similar arrangements on FBOTs whereby their customer orders are transmitted to an FBOT.[57] IBs are not included in § 48.4 as intermediaries eligible to have direct access and transmit trades on behalf of customers. As such, registered FBOTs currently do not provide direct access to IBs located in the United States to enter orders on behalf of their customers.

Relative to the baseline, the primary effect of the amendment to § 48.4 is to allow registered FBOTs to provide direct access to eligible IBs in order to transmit orders of U.S. customers. This could promote competition among execution-only brokers on registered FBOTs. There may be advantages to customers from having additional choices in brokers and brokerage arrangements to trade foreign derivatives on registered FBOTs—for example, lower trading costs or the use of advantageous proprietary execution algorithms developed by such IBs. Several commenters assert that the amendments will allow U.S. participants to better conduct risk management by enabling trades to be submitted to FBOTs through IBs during the U.S. business day following the close of European markets.[58] From the standpoint of registered FBOTs, allowing eligible IBs to become direct access participants for submission of customer orders will open up potential new distribution channels that could lead to additional trading volume. This in turn could improve the viability of some traded instruments. Similarly, eligible IBs may be able to pursue new business models and/or expand existing business models onto new foreign markets.

FBOTs that decide to provide direct access to eligible IBs pursuant to this final rule and that do not already have necessary structures in place to do so may incur certain costs relating to, for example, modification of rules, procedures and/or systems to enable direct access to eligible IBs to submit customer orders to the FBOT's trading system for execution.

The Commission did not receive any comments which quantified or attempted to quantify any of the costs and benefits described above, or which quantified or attempted to quantify any other costs or benefits associated with eligible IBs having direct access to registered FBOTs.

Section 15(a) Factors

Section 15(a) of the CEA requires the Commission to consider the costs and

[56] NFA website, *https://www.nfa.futures.org/registration-membership/membership-and-directories.html.*

[57] The definition of ''direct access'' does not include identified members or other participants of an FBOT that are located outside of the United States. *See* 17 CFR 48.2(c).

[58] Eurex at 3–4; FIA at 2; NIBA at 1.

benefits of the amendments to part 48 with respect to the following factors: protection of market participants and the public; efficiency, competitiveness, and financial integrity of markets; price discovery; sound risk management practices; and other public interest considerations.

(i) Protection of Market Participants and the Public

The changes to part 48 would not affect the basic protection for customers with respect to their foreign futures and options transactions. Under the rule, U.S. customer assets are required to be maintained by registered FCMs or similar entities exempt from FCM registration pursuant to § 30.10.

(ii) Efficiency, Competitiveness, and Financial Integrity of Markets

The current part 48 treats IBs differently from certain FCMs, CTAs and CPOs in that certain FCMs, CTAs and CPOs have the ability to be granted direct access to registered FBOTs for the submission of client orders. Similarly, non-U.S. intermediaries (which are outside of the scope of part 48) may also, under the status quo, be granted similar access to registered FBOTs for the purpose of offering execution services to U.S. and non-U.S. customers. The adopted amendments to part 48 will permit eligible IBs to offer competing execution services on registered FBOTs. The adopted amendments may also open access to foreign derivatives markets for existing IB customers that otherwise would not have access to trading on a registered FBOT (*i.e.,* customers that choose not to or cannot become direct access participants or otherwise seek out an eligible FCM, CPO, CTA, or foreign broker to transact on an FBOT). Greater competition among introducing brokers and potentially additional and new types of customers participating in affected markets may lead to increased market efficiencies and greater financial integrity. Furthermore, that trades of U.S. customers must be guaranteed by registered FCMs or comparable foreign firms promotes the financial integrity of affected markets by ensuring that intermediaries handling U.S. customer funds are subject to certain regulatory safeguards.

(iii) Price Discovery

There is a potential for the adopted changes to part 48 to positively affect price discovery in futures markets. Participation of eligible IBs as direct access members may lead to increased participation and volume on registered FBOTs, in particular during hours when U.S. brokers are more active than foreign brokers.

(iv) Risk Management Practices

As noted above, the changes will not affect how customer assets are treated. However, registered FCMs and firms exempt from FCM registration pursuant to § 30.10 may need to expand their risk mitigation processes to ensure that they have robust processes for managing the risk associated with eligible IBs executing trades on registered FBOTs via direct access.

(v) Other Public Interest Considerations

As noted above, the changes may enable new and distinct kinds of market participants to access registered FBOTs, which could help improve liquidity and reduce fragmentation in affected markets.

D. Antitrust Considerations

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the purposes of this Act, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 4(c) or 4c(b)), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of this Act.[59]

The Commission believes that the public interest to be protected by the antitrust laws is generally to protect competition. The Commission has considered the modified rule to determine whether it is anticompetitive and has identified no anticompetitive effects.[60] Because the Commission has determined that the modified rule is not anticompetitive and has no anticompetitive effects, the Commission has not identified any less anticompetitive means of achieving the purposes of the Act.

List of Subjects in 17 CFR Part 48

Registration of foreign boards of trade.

[59] 7 U.S.C. 19(b).

[60] The Commission received several comments stating that the modified rule may increase competition and/or promote fair competition among brokers. *See* FIA at 2 (stating that the rule may ''work to increase competition in brokering foreign products''); NIBA at 2 (stating that ''IBs should have the same access to FBOTs as CPOs and CTAs currently enjoy'' and that the modified rule ''can provide additional market choices for IBs and their customers''); WMBAA at 2–3 (stating that the rule will ''promote competition among firms offering execution brokerage services to customers on registered FBOTs,'' and that the rule ''allows for the growth of competitive markets without impeding liquidity formation'').

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR part 48 as follows:

PART 48—REGISTRATION OF FOREIGN BOARDS OF TRADE

■ 1. The authority citation for part 48 continues to read as follows:

Authority: 7 U.S.C. 5, 6 and 12a, unless otherwise noted.

§ 48.2 [Amended]

■ 2. In § 48.2 remove paragraph (h) and redesignate paragraphs (i) through (l) as paragraphs (h) through (k), respectively.

■ 3. In § 48.4 revise paragraph (b) to read as follows:

§ 48.4 Registration eligibility and scope.

* * * * *

(b) A foreign board of trade may apply for registration under this part in order to permit the members and other participants of the foreign board of trade that are located in the United States to enter trades directly into the trading and order matching system of the foreign board of trade, to the extent that such members or other participants are:

(1) Entering orders for the member's or other participant's proprietary accounts;

(2) Registered with the Commission as futures commission merchants and are submitting customer orders to the trading system for execution;

(3) Registered with the Commission as a commodity pool operator or commodity trading advisor, or are exempt from such registration pursuant to § 4.13 or § 4.14 of this chapter, and are submitting orders for execution on behalf of a United States pool that the member or other participant operates or an account of a United States customer for which the member or other participant has discretionary authority, respectively, provided that a futures commission merchant registered with the Commission as such or a firm exempt from such registration pursuant to § 30.10 of this chapter acts as clearing firm and guarantees, without limitation, all such trades of the commodity pool operator or commodity trading advisor effected through submission of orders to the trading system; or

(4) Registered with the Commission as introducing brokers and are submitting customer orders to the trading system for execution, provided that a futures commission merchant registered with the Commission as such or a firm exempt from such registration pursuant to § 30.10 of this chapter acts as a clearing firm and guarantees, without limitation, all trades of the introducing

broker effected through submission of orders for United States customers to the trading system.

§ 48.6 [Removed and Reserved]

■ 4. Remove and reserve § 48.6.

■ 5. In § 48.8, revise paragraphs (a)(4)(ii) and (a)(5)(i) and (iii) to read as follows:

§ 48.8 Conditions of registration.

* * * * *

(a) * * *

(4) * * *

(ii) All orders that are transmitted to the foreign board of trade's trading system by a foreign board of trade's identified member or other participant that is operating pursuant to the foreign board of trade's registration will be solely for the member's or trading participant's own account unless such member or other participant is registered with the Commission as a futures commission merchant or such member or other participant is registered with the Commission as an introducing broker, commodity pool operator or commodity trading advisor, or is exempt from registration as a commodity pool operator or commodity trading advisor pursuant to § 4.13 or § 4.14 of this chapter, provided that a futures commission merchant registered with the Commission as such or a firm exempt from such registration pursuant to § 30.10 of this chapter acts as clearing firm and guarantees, without limitation, all trades of the introducing broker, commodity pool operator or commodity trading advisor effected through submission of orders for United States pools or customers to the trading system.

(5) * * *

(i) Prior to operating pursuant to registration under this part and on a continuing basis thereafter, a registered foreign board of trade will require that each current and prospective member or other participant that is granted direct access to the foreign board of trade's trading system and that is not registered with the Commission as a futures commission merchant, an introducing broker, a commodity trading advisor or a commodity pool operator, file with the foreign board of trade a written representation, executed by a person with the authority to bind the member or other participant, stating that as long as the member or other participant is authorized to enter orders directly into the trade matching system of the foreign board of trade, the member or other participant agrees to and submits to the jurisdiction of the Commission with respect to activities conducted pursuant to the registration.

* * * * *

(iii) The foreign board of trade, clearing organization, and each current and prospective member or other participant that is granted direct access to the foreign board of trade's trading system and that is not registered with the Commission as a futures commission merchant, an introducing broker, a commodity trading advisor, or a commodity pool operator will maintain with the foreign board of trade written representations, executed by persons with the authority to bind the entity making them, stating that as long as the foreign board of trade is registered under this part, the foreign board of trade, the clearing organization or member of either or other participant granted direct access pursuant to this part will provide, upon the request of the Commission, the United States Department of Justice and, if appropriate, the National Futures Association, prompt access to the entity's, member's, or other participant's original books and records or, at the election of the requesting agency, a copy of specified information containing such books and records, as well as access to the premises where the trading system is available in the United States.

* * * * *

■ 6. In § 48.9, add paragraph (b)(5) to read as follows:

§ 48.9 Revocation of registration.

* * * * *

(b) * * *

(5) The Commission may revoke a foreign board of trade's registration in response to a voluntary request by the foreign board of trade to vacate its registration. A foreign board of trade may file a request to vacate its registration with the Secretary of the Commission at *FBOTapplications@cftc.gov.*

* * * * *

Issued in Washington, DC, on August 6, 2024, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendices to Foreign Boards of Trade—Voting Summary and Chairman's and Commissioners' Statements

Appendix 1—Voting Summary

On this matter, Chairman Behnam and Commissioners Johnson, and Goldsmith Romero, Mersinger, and Pham voted in the affirmative. No Commissioner voted in the negative.

Appendix 2—Statement of Chairman Rostin Behnam

I support this final rule, which amends the CFTC regulations for foreign boards of trade (FBOTs). The amendments permit a registered FBOT to provide direct access to its electronic trading and order matching system to a registered introducing broker (IB) located in the United States for submission of customer orders to the FBOT's trading system for execution. Based upon more than ten years of Commission experience with the existing rules for FBOTs, the amendments also enhance and modernize the ruleset.

The existing FBOT rules were promulgated in 2011. Today's amendments demonstrate the Commission's ongoing consideration of its existing rules and my commitment to ensuring that our rules address the reality of today's markets and their structure. The changes enable new types of market participants to access registered FBOTs, improving liquidity and promoting healthier markets.

I thank staff in the Division of Market Oversight, Office of the General Counsel, and the Office of the Chief Economist for all of their work on this final rule.

Appendix 3—Statement of Commissioner Kristin N. Johnson

The Commodity Futures Trading Commission (Commission) approved a final rule that amends Part 48 to permit a foreign board of trade (FBOT) registered with the Commission to provide introducing brokers (IBs) located in the United States and registered with the Commission direct access to submit orders to trade foreign futures and options on behalf of customers located in the United States (Final Rule).[1] Under the Final Rule, FBOTs will be able to provide registered IBs located in the United States with direct access to execute customer trades, provided that they submit such orders for clearing to a Commission-registered FCM or a firm exempt from FCM registration under CFTC Regulation 30.10.

Over the course of my tenure as a Commissioner, I have consistently supported the Commission's efforts to advance the protection of customer funds. I appreciate the thoughtful comments regarding the Commission's 30.10 framework in the context of the Final Rule and the attention given to the need to ensure that the foreign regime has comparable customer protection, disclosure, and anti-money laundering requirements.

I support the Final Rule, which includes important protections for U.S. customers, while also facilitating market access. I commend the careful work of the staff of the Division of Market Oversight, including Alexandros Stamoulis, Roger Smith, Maura Dundon, and David Reiffen, on the Final Rule.

[1] The Commission is also establishing a procedure for an FBOT to request the revocation of its registration, and removing certain outdated references to ''existing no-action relief.''

Appendix 4—Statement of Commissioner Caroline D. Pham

I support the Foreign Boards of Trade (FBOT) Final Rule because it promotes access to markets for U.S. participants, competition, and liquidity. I would like to thank Maura Dundon, Roger Smith, and Alexandros Stamoulis in the CFTC's Division of Market Oversight for their work on this rulemaking.

I will reiterate key points from my statement on the FBOT proposed rule.[1] As a CFTC Commissioner, I have made it clear that I believe in good policy that enables growth, progress, and access to markets.[2] Accordingly, I am pleased to support Commission efforts that take a pragmatic approach to issues that hinder market access and cross-border activity. I continue to believe that this rulemaking exemplifies policy that ensures a level playing field, and I applaud this step in the right direction for market structure.

FBOTs have been a critical piece of the CFTC's markets for decades and provide access for U.S. market participants to non-U.S. markets in realization of the global economy and international business.[3] The main substantive amendment in the FBOT Final Rule is to Regulation 48.4, which will now include introducing brokers (IBs)[4] as a permissible intermediary, in addition to futures commission merchants (FCMs), commodity pool operators (CPOs), and commodity trading advisors (CTAs), to enter orders on behalf of customers or commodity pools via direct access on a registered FBOT.[5] I believe that the FBOT Final Rule will provide more choice in brokers and broker arrangements for U.S. market participants that trade foreign futures and ensure that appropriate customer protections are in place.

As sponsor of the CFTC's Global Markets Advisory Committee (GMAC),[6] I have devoted a significant part of my Commissionership to supporting solutions that will enhance the resiliency and efficiency of global markets.[7] The FBOT Final Rule is policy that mitigates market fragmentation and the associated impact on liquidity, and promotes the overall competitiveness of our derivatives markets. I am pleased to support the FBOT Final Rule.

[FR Doc. 2024–17828 Filed 8–14–24; 8:45 am]

BILLING CODE 6351–01–P

[1] Statement of Commissioner Caroline D. Pham in Support of Foreign Board of Trade Proposal (Feb. 20, 2024), *https://www.cftc.gov/PressRoom/SpeechesTestimony/phamstatement022024.*

[2] *See, e.g.,* Keynote Address by Commissioner Caroline D. Pham, 98th Annual Convention of the American Cotton Shippers Association (June 22, 2022), *https://www.cftc.gov/PressRoom/SpeechesTestimony/opapham2;* Statement of Commissioner Caroline D. Pham on Staff Letter Regarding ADM Investor Services, Inc. (June 16, 2023), *https://www.cftc.gov/PressRoom/SpeechesTestimony/phamstatement061623.*

[3] While FBOTs initially had operated pursuant to no-action relief, in 2011, following the Dodd-Frank Wall Street and Consumer Protection Act of 2010, the Commission began registering FBOTs. *See* Registration of Foreign Boards of Trade, Final Rule, 76 FR 80674 (Dec. 23, 2011), *https://www.federalregister.gov/documents/2011/12/23/2011-31637/registration-of-foreign-boards-of-trade.*

[4] The Commission generally defines an IB as an individual or organization that solicits or accepts orders to buy or sell futures contracts, commodity options, retail off-exchange forex or commodity contracts, or swaps, but does not accept money or other assets from customers to support these orders. Commodity Exchange Act (CEA) section 1a(31); 17 CFR 1.3(mm). The Commission registers IBs under CEA section 4d(g) and CFTC Regulation 3.4(a). 7 U.S.C. 6d(g) and 17 CFR 3.4(a).

[5] 17 CFR 48.4.

[6] CFTC Global Markets Advisory Committee, *https://www.cftc.gov/About/AdvisoryCommittees/GMAC. See* Commissioner Pham Announces New Members and Leadership of the CFTC's Global Markets Advisory Committee and Subcommittees (June 30, 2023), *https://www.cftc.gov/PressRoom/PressReleases/8740-23.*

[7] *E.g.,* Achieving Growth and Progress: Statement of Commissioner Caroline D. Pham at the Global Markets Advisory Committee June 4 Meeting (June 4, 2024), *https://www.cftc.gov/PressRoom/SpeechesTestimony/phamstatement060424;* Opening Statement of Commissioner Caroline D. Pham before the Global Markets Advisory Committee (Feb. 13, 2023), *https://www.cftc.gov/PressRoom/SpeechesTestimony/phamstatement021323.* To date, the GMAC has advanced 13 recommendations and reports to the Commission on a broad set of significant global markets issues, including U.S. Treasury market liquidity, well-functioning repo and funding markets, capital and margin requirements, exchange volatility controls, T+1 securities settlement, improved collateral management, central counterparty (CCP) default simulation, streamlining trade reporting data to monitor systemic risk, and a foundational digital asset taxonomy to facilitate alignment in regulation across jurisdictions.

DEPARTMENT OF STATE

22 CFR Part 120

[Public Notice: 12422]

RIN 1400–AF26

International Traffic in Arms Regulations: Amendments to the Definition of Activities That Are Not Exports, Reexports, Retransfers, or Temporary Imports

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State (the Department) published a proposed rule on December 16, 2022, to include two new entries to the International Traffic in Arms Regulations (ITAR) to expand the definition of ''activities that are not exports, reexports, retransfers, or temporary imports.'' The Department is now responding to the public comments received in response to that proposed rule and finalizing the proposed rule with changes.

DATES: The rule is effective on September 16, 2024.

FOR FURTHER INFORMATION CONTACT: Sarah Heidema, Office of Defense Trade Controls Policy, Department of State, telephone (202) 634–4981; email *DDTCCustomerService@state.gov* ATTN: Regulatory Change, ITAR 120.54 additions.

SUPPLEMENTARY INFORMATION: On December 16, 2022, the Department of State published a proposed rule (87 FR 77046), to include two new entries to § 120.54 of the International Traffic in Arms Regulations (ITAR) to expand the definition of ''activities that are not exports, reexports, retransfers, or temporary imports.'' Activities listed in ITAR § 120.54 do not require an authorization from the Department's Directorate of Defense Trade Controls (DDTC). The Department has received delegated authority under section 38 of the Arms Export Control Act (AECA) (22 U.S.C. 2778) to issue regulations regarding the export of defense articles and defense services. It has long used this authority to define what events are controlled as exports and what events are not. Moreover, section 38(b) of the AECA also provides supporting authority, as the Department may by regulation except instances where a license would otherwise be required. Accordingly, the Department proposed this rule to amend ITAR § 120.54 in two ways. First, the proposed rule provided that, subject to certain conditions, the taking of U.S. defense articles outside a previously approved country by the armed forces of a foreign government or United Nations personnel on a deployment or training exercise is not an export, reexport, retransfer, or temporary import. Second, the proposed rule provided that a foreign defense article that enters the United States, either permanently or temporarily, and that is subsequently exported from the United States pursuant to a license or other approval under this subchapter, is not subject to the reexport and retransfer requirements of this subchapter, provided it has not been modified, enhanced, upgraded, or otherwise altered or improved or had a U.S.-origin defense article incorporated into it. In that proposed rule, the Department requested comments from the public. The Department now provides responses to those comments and amends the ITAR, with changes from the proposed rule, through this final rulemaking.

Summary of Changes From the Proposed Rule

The following are six changes the Department made in this final rule since the development and publication of the December 16, 2022, proposed rule (87 FR 77046). First, to provide additional clarity, the Department inverted the order of proposed paragraphs (a)(6)(i)